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5 UNITED STATES DISTRICT COURT

6 DISTRICT OF NEVADA

7 LORRE KANTZ, an individual,

CASE NO. 3:17-cv-00244-MMD-WGC

8  
9 Plaintiffs,

**DEFENDANTS' ANSWER TO FIRST  
AMENDED COMPLAINT FOR CIVIL  
RIGHTS VIOLATION**

10 vs.

11 BRANDON SOUKUP, an individual,  
SAMUEL BLYVEIS, an individual,  
12 ALVIN MCNEIL, an individual; and  
LYON COUNTY, a political subdivision of  
13 the State of Nevada.

14 Defendants.  
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15 Defendants BRANDON SOUKUP, SAMUEL BLYVEIS, ALVIN MCNEIL and LYON  
16 COUNTY (hereinafter "Defendants"), by and through their undersigned counsel, for their  
17 Answer to First Amended Complaint for Civil Rights hereby admit, deny and allege as follows:

18 **GENERAL ALLEGATIONS**

19 **Jurisdiction and Venue**

20 1. Defendants are without knowledge or sufficient information to respond to the  
21 allegation contained in Paragraph 1 of Plaintiff's First Amended Complaint and therefore deny  
22 the same.

23 2. Defendants are without knowledge or sufficient information to respond to the  
24 allegation contained in Paragraph 2 of Plaintiff's First Amended Complaint and therefore deny  
25 the same.

26 3. Defendants are without knowledge or sufficient information to respond to the  
27 allegation contained in Paragraph 3 of Plaintiff's First Amended Complaint and therefore deny  
28 the same.

**Parties**

4. Defendants are without knowledge or sufficient information to respond to the allegation contained in Paragraph 4 of Plaintiff's First Amended Complaint and therefore deny the same.

5. Defendants admit that Defendant BRANDON SOUKUP is a Deputy Sheriff employed by Lyon County, Nevada, however, Defendants are without knowledge or sufficient information to respond to the remaining allegations contained in Paragraph 5 of Plaintiff's First Amended Complaint and therefore deny the same.

6. Defendants admit that Defendant SAMUEL BLYVEIS was a Deputy Sheriff employed by Lyon County, Nevada, however, Defendants are without knowledge or sufficient information to respond to the remaining allegations contained in Paragraph 6 of Plaintiff's First Amended Complaint and therefore deny the same.

7. Defendants admit that Defendant ALVIN MCNEIL is the Sheriff of Lyon County, Nevada, however, Defendants are without knowledge or sufficient information to respond to the remaining allegations contained in Paragraph 7 of Plaintiff's First Amended Complaint and therefore deny the same.

8. Defendants admit LYON COUNTY is a political subdivision of the State of Nevada and was the employer of Defendants SOUKUP, BLYVEIS and MCNEIL at the time this incident occurred.

9. Defendants are without knowledge or sufficient information to respond to the allegation contained in Paragraph 9 of Plaintiff's First Amended First Amended Complaint and therefore deny the same.

**General Allegations**

10. Defendants are without knowledge or sufficient information to respond to the allegation contained in Paragraph 10 of Plaintiff's First Amended First Amended Complaint and therefore deny the same.

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1           11. Defendants are without knowledge or sufficient information to respond to the  
2 allegation contained in Paragraph 11 of Plaintiff's First Amended First Amended Complaint and  
3 therefore deny the same.

4           12. Defendants are without knowledge or sufficient information to respond to the  
5 allegation contained in Paragraph 12 of Plaintiff's First Amended First Amended Complaint and  
6 therefore deny the same.

7           13. Defendants are without knowledge or sufficient information to respond to the  
8 allegation contained in Paragraph 13 of Plaintiff's First Amended First Amended Complaint and  
9 therefore deny the same.

10           14. Defendants are without knowledge or sufficient information to respond to the  
11 allegation contained in Paragraph 14 of Plaintiff's First Amended First Amended Complaint and  
12 therefore deny the same.

13           15. Defendants are without knowledge or sufficient information to respond to the  
14 allegation contained in Paragraph 15 of Plaintiff's First Amended First Amended Complaint and  
15 therefore deny the same.

16           16. Defendants are without knowledge or sufficient information to respond to the  
17 allegation contained in Paragraph 16 of Plaintiff's First Amended First Amended Complaint and  
18 therefore deny the same.

19           17. Defendants are without knowledge or sufficient information to respond to the  
20 allegation contained in Paragraph 17 of Plaintiff's First Amended First Amended Complaint and  
21 therefore deny the same.

22           18. Defendants are without knowledge or sufficient information to respond to the  
23 allegation contained in Paragraph 18 of Plaintiff's First Amended First Amended Complaint and  
24 therefore deny the same.

25           19. Defendants are without knowledge or sufficient information to respond to the  
26 allegation contained in Paragraph 19 of Plaintiff's First Amended First Amended Complaint and  
27 therefore deny the same.

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1           20. Defendants are without knowledge or sufficient information to respond to the  
2 allegation contained in Paragraph 20 of Plaintiff's First Amended First Amended Complaint and  
3 therefore deny the same.

4           21. Defendants are without knowledge or sufficient information to respond to the  
5 allegation contained in Paragraph 21 of Plaintiff's First Amended First Amended Complaint and  
6 therefore deny the same.

7           22. Defendants are without knowledge or sufficient information to respond to the  
8 allegation contained in Paragraph 22 of Plaintiff's First Amended First Amended Complaint and  
9 therefore deny the same.

10          23. Defendants are without knowledge or sufficient information to respond to the  
11 allegation contained in Paragraph 23 of Plaintiff's First Amended First Amended Complaint and  
12 therefore deny the same.

13          24. Defendants are without knowledge or sufficient information to respond to the  
14 allegation contained in Paragraph 24 of Plaintiff's First Amended First Amended Complaint and  
15 therefore deny the same.

16          25. Defendants are without knowledge or sufficient information to respond to the  
17 allegation contained in Paragraph 25 of Plaintiff's First Amended First Amended Complaint and  
18 therefore deny the same.

19          26. Defendants are without knowledge or sufficient information to respond to the  
20 allegation contained in Paragraph 26 of Plaintiff's First Amended First Amended Complaint and  
21 therefore deny the same.

22          27. Defendants are without knowledge or sufficient information to respond to the  
23 allegation contained in Paragraph 27 of Plaintiff's First Amended First Amended Complaint and  
24 therefore deny the same.

25          28. Defendants are without knowledge or sufficient information to respond to the  
26 allegation contained in Paragraph 28 of Plaintiff's First Amended First Amended Complaint and  
27 therefore deny the same.

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1           29. Defendants are without knowledge or sufficient information to respond to the  
2 allegation contained in Paragraph 29 of Plaintiff's First Amended First Amended Complaint and  
3 therefore deny the same.

4           30. Defendants are without knowledge or sufficient information to respond to the  
5 allegation contained in Paragraph 30 of Plaintiff's First Amended First Amended Complaint and  
6 therefore deny the same.

7           31. Defendants are without knowledge or sufficient information to respond to the  
8 allegation contained in Paragraph 31 of Plaintiff's First Amended First Amended Complaint and  
9 therefore deny the same.

10          32. Defendants are without knowledge or sufficient information to respond to the  
11 allegation contained in Paragraph 32 of Plaintiff's First Amended First Amended Complaint and  
12 therefore deny the same.

13          33. Defendants are without knowledge or sufficient information to respond to the  
14 allegation contained in Paragraph 33 of Plaintiff's First Amended First Amended Complaint and  
15 therefore deny the same.

16          34. Defendants are without knowledge or sufficient information to respond to the  
17 allegation contained in Paragraph 34 of Plaintiff's First Amended First Amended Complaint and  
18 therefore deny the same.

19          35. Defendants are without knowledge or sufficient information to respond to the  
20 allegation contained in Paragraph 35 of Plaintiff's First Amended First Amended Complaint and  
21 therefore deny the same.

22          36. Defendants are without knowledge or sufficient information to respond to the  
23 allegation contained in Paragraph 36 of Plaintiff's First Amended First Amended Complaint and  
24 therefore deny the same.

25          37. Defendants are without knowledge or sufficient information to respond to the  
26 allegation contained in Paragraph 37 of Plaintiff's First Amended First Amended Complaint and  
27 therefore deny the same.

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1           38. Defendants are without knowledge or sufficient information to respond to the  
2 allegation contained in Paragraph 38 of Plaintiff's First Amended First Amended Complaint and  
3 therefore deny the same.

4           39. Defendants are without knowledge or sufficient information to respond to the  
5 allegation contained in Paragraph 39 of Plaintiff's First Amended First Amended Complaint and  
6 therefore deny the same.

7           40. Defendants are without knowledge or sufficient information to respond to the  
8 allegation contained in Paragraph 40 of Plaintiff's First Amended First Amended Complaint and  
9 therefore deny the same.

10          41. Defendants are without knowledge or sufficient information to respond to the  
11 allegation contained in Paragraph 41 of Plaintiff's First Amended First Amended Complaint and  
12 therefore deny the same.

13          42. Defendants are without knowledge or sufficient information to respond to the  
14 allegation contained in Paragraph 42 of Plaintiff's First Amended First Amended Complaint and  
15 therefore deny the same.

16          43. Defendants are without knowledge or sufficient information to respond to the  
17 allegation contained in Paragraph 43 of Plaintiff's First Amended First Amended Complaint and  
18 therefore deny the same.

19          44. Defendants are without knowledge or sufficient information to respond to the  
20 allegation contained in Paragraph 44 of Plaintiff's First Amended First Amended Complaint and  
21 therefore deny the same.

22          45. Defendants are without knowledge or sufficient information to respond to the  
23 allegation contained in Paragraph 45 of Plaintiff's First Amended First Amended Complaint and  
24 therefore deny the same.

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**COUNT I - Unreasonable Search in Violation of the Fourth Amendment**  
**(Against Defendant Soukup in his individual capacity and against Defendant Blyveis**  
**in his individual capacity and, against Defendant McNeil in his official capacity**  
**and Lyon County)**

46. Defendants deny each and every allegation contained in Paragraph 46 of Plaintiff's First Amended First Amended Complaint.

47. Defendants are without knowledge or sufficient information to respond to the allegation contained in Paragraph 47 of Plaintiff's First Amended First Amended Complaint and therefore deny the same.

48. Defendants deny each and every allegation contained in Paragraph 48 of Plaintiff's First Amended First Amended Complaint.

49. Defendants deny each and every allegation contained in Paragraph 49 of Plaintiff's First Amended First Amended Complaint.

50. Defendants deny each and every allegation contained in Paragraph 50 of Plaintiff's First Amended First Amended Complaint.

51. Defendants are without knowledge or sufficient information to respond to the allegation contained in Paragraph 51 of Plaintiff's First Amended First Amended Complaint and therefore deny the same.

52. Defendants are without knowledge or sufficient information to respond to the allegation contained in Paragraph 52 of Plaintiff's First Amended First Amended Complaint and therefore deny the same.

53. Defendants are without knowledge or sufficient information to respond to the allegation contained in Paragraph 53 of Plaintiff's First Amended First Amended Complaint and therefore deny the same.

54. Defendants admit each and every allegation contained in Paragraph 54 of Plaintiff's First Amended First Amended Complaint.

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**COUNT II - False Imprisonment**

**(Against All Defendants)**

55. Defendants are without knowledge or sufficient information to respond to the allegation contained in Paragraph 55 of Plaintiff's First Amended First Amended Complaint and therefore deny the same.

56. Defendants are without knowledge or sufficient information to respond to the allegation contained in Paragraph 56 of Plaintiff's First Amended First Amended Complaint and therefore deny the same.

57. Defendants deny each and every allegation contained in Paragraph 57 of Plaintiff's First Amended First Amended Complaint.

58. Defendants are without knowledge or sufficient information to respond to the allegation contained in Paragraph 58 of Plaintiff's First Amended First Amended Complaint and therefore deny the same.

59. Defendants are without knowledge or sufficient information to respond to the allegation contained in Paragraph 59 of Plaintiff's First Amended First Amended Complaint and therefore deny the same.

**COUNT III - Intentional Infliction of Emotional Distress upon Lorre**

**(Against All Defendants)**

60. Defendants are without knowledge or sufficient information to respond to the allegation contained in Paragraph 60 of Plaintiff's First Amended First Amended Complaint and therefore deny the same.

61. Defendants deny each and every allegation contained in Paragraph 61 of Plaintiff's First Amended First Amended Complaint.

62. Defendants are without knowledge or sufficient information to respond to the allegation contained in Paragraph 62 of Plaintiff's First Amended First Amended Complaint and therefore deny the same.

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63. Defendants are without knowledge or sufficient information to respond to the allegation contained in Paragraph 63 of Plaintiff's First Amended First Amended Complaint and therefore deny the same.

**COUNT IV - Battery (Against All Defendants)**

64. Defendants are without knowledge or sufficient information to respond to the allegation contained in Paragraph 64 of Plaintiff's First Amended First Amended Complaint and therefore deny the same.

65. Defendants are without knowledge or sufficient information to respond to the allegation contained in Paragraph 65 of Plaintiff's First Amended First Amended Complaint and therefore deny the same.

66. Defendants are without knowledge or sufficient information to respond to the allegation contained in Paragraph 66 of Plaintiff's First Amended First Amended Complaint and therefore deny the same.

67. Defendants are without knowledge or sufficient information to respond to the allegation contained in Paragraph 67 of Plaintiff's First Amended First Amended Complaint and therefore deny the same.

68. Defendants are without knowledge or sufficient information to respond to the allegation contained in Paragraph 68 of Plaintiff's First Amended First Amended Complaint and therefore deny the same.

69. Defendants are without knowledge or sufficient information to respond to the allegation contained in Paragraph 69 of Plaintiff's First Amended First Amended Complaint and therefore deny the same.

**AFFIRMATIVE DEFENSES**

**FIRST DEFENSE**

Plaintiff's First Amended First Amended Complaint on file herein fails to state a claim against Defendants upon which relief may be granted.

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**SECOND DEFENSE**

It has been necessary for Defendants to employ the services of an attorney to defend this action, and a reasonable sum should be allowed Defendants as and for attorney's fees, together with costs expended in this action.

**THIRD DEFENSE**

Plaintiff is constrained from invoking the equitable jurisdiction of this Court and/or an equitable remedy because Plaintiff has not come before this Court with clean hands.

**FOURTH DEFENSE**

Plaintiff is barred from recovering damages against Defendants by their failure to exhaust any and all available state law remedies.

**FIFTH DEFENSE**

Defendants' alleged actions or omissions were taken with due care in the execution of statutes and regulations, and, therefore, Defendants are statutorily immune from this action.

**SIXTH DEFENSE**

Defendants' alleged actions or omissions occurred in the exercise or performance of discretionary functions and duties, and therefore, Defendants are statutorily immune from this action.

**SEVENTH DEFENSE**

At all times and places alleged in Plaintiff's First Amended First Amended Complaint, the negligence, misconduct, and fault of Plaintiff exceeds that of Defendants, if any, and Plaintiff is thereby barred from any recovery against Defendants.

**EIGHTH DEFENSE**

Defendants allege that all times and places alleged in Plaintiff's First Amended First Amended Complaint, Plaintiff did not exercise ordinary care, caution or prudence in the premises to avoid the loss herein complained of, and the same was directly and proximately contributed to and caused by the negligence, misconduct and fault of the Plaintiff.

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**NINTH DEFENSE**

At all relevant times, Defendants acted in good faith, pursuant to legal process, with justification and probable cause and without malice toward Plaintiff.

**TENTH DEFENSE**

At all relevant times, Defendants acted in good faith, pursuant to legal process, with justification and probable cause and without malice toward Plaintiff.

**ELEVENTH DEFENSE**

Defendants' alleged conduct did not violate clearly established statutory or constitutional rights of which a reasonable person would have known.

**TWELFTH DEFENSE**

Plaintiff's federal claims are barred by virtue of the doctrine of "absolute immunity".

**THIRTEENTH DEFENSE**

Plaintiff's federal claims are barred by virtue of the doctrine of "qualified immunity".

**FOURTEENTH DEFENSE**

Plaintiff has failed to mitigate her losses and damages, if any.

**FIFTEENTH DEFENSE**

Plaintiff's claims are barred by the applicable statute of limitations.

**SIXTEENTH DEFENSE**

Plaintiff's is estopped from asserting any cause or action whatsoever against Defendants.

**SEVENTEENTH DEFENSE**

Plaintiff, by her acts and conduct, has waived and abandoned any and all claims as alleged herein against these Defendants.

**EIGHTEENTH DEFENSE**

Plaintiff is barred from recovering any special damages herein for failure to specifically allege items of special damages claimed, pursuant to Rule 9(g), Nevada Rules of Civil Procedure.

**NINETEENTH DEFENSE**

Plaintiff may have suffered from a pre-existing injury or condition and are not entitled to compensation therefor.

**TWENTIETH DEFENSE**

Plaintiff may have suffered from a pre-existing injury or condition and are not entitled to compensation therefor.

Pursuant to FRCP Rule 11, as amended, all possible affirmative defenses may not have been alleged herein insofar as sufficient facts were not available after reasonable inquiry upon the filing of Defendants' Answer, and therefore, Defendants reserve the right to amend this Answer to allege additional affirmative defenses if subsequent investigation so warrants.

WHEREFORE, the Defendants pray as follows:

1. That Plaintiff take nothing by virtue of her First Amended First Amended Complaint against these Defendants;
2. That these answering Defendants have judgment against Plaintiff;
3. That these answering Defendants be allowed to recover their costs and fees incurred in defending this action; and
4. For such other and further relief as the court may deem just and equitable.

Respectfully submitted this 19<sup>th</sup> day of September, 2017.

RANDS, SOUTH & GARDNER

By: 

Douglas R. Rands  
9498 Double R Blvd., Suite A  
Reno, Nevada 89521  
Attorneys for Defendants

**CERTIFICATE OF SERVICE**

Pursuant to NRCP. 5(b), I certify that I am an employee of RANDS, SOUTH & GARDNER, and that on this date, I served a true and correct copy of the attached document as follows:

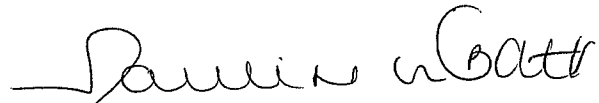


By electronic serve. The attached document was filed electronically with the United States District Court. Electronic service will be completed automatically for all parties who are e-filers and have agreed to accept service in this manner. The undersigned will confirm that the Notice of Electronic Filing states that the attached document will be electronically mailed; otherwise, an alternative method will be used.

\_\_\_\_ U.S. Mail

Lorre Ann Kantz  
9790 US Hwy 50  
Stagecoach, Nevada 89429  
T: 775-315-9885  
lorrekantz@gmail.com

DATED this 20 day of September, 2017.

  
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Pauline M. Batts